

SALE OF LANDS IN ST. LANDRY PARISH, LA.

JANUARY 28, 1921.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MAYS, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 14851.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 14851) for the relief of occupants of lands included in the Bellevue grant, in St. Landry Parish, La., having considered the same, report it to the House with the recommendation that it do pass, with the following amendments:

1. Page 1, strike out the first three lines of the preamble and insert in lieu thereof the following:

"Whereas, as appears from an extract from the American State Papers, Class Eight, relating to public lands, Gales and Seaton edition, volume three, pages ninety-two, one hundred seven and one hundred eight, claim number fifty-nine, and the report of the commissioners thereon."

2. Page 3, line 3, strike out the word "all" and insert in lieu thereof the word "any."

3. Page 3, line 3, strike out the words "occupants or owners" and insert in lieu thereof the words "bona fide claimants."

4. Page 3, line 6, strike out the words "they were."

5. Page 3, lines 8 and 9, strike out the words "as set forth in the preamble."

6. Page 3, line 9, strike out the words "purchased from the claimants" and insert in lieu thereof the words "successors in interest of the purchasers."

7. Page 3, line 10, after the word "and" at the end of the line insert the word "who."

8. Page 3, lines 11 and 12, strike out the words "either or all of such persons."

The object of this bill is to remove the cloud on the title of the occupants of certain lands in St. Landry Parish, La., by permitting them to purchase same from the Government at the usual price fixed in such cases. The right to purchase is restricted to bona fide

claimants of lands on the Bellevue grant who were purchasers of the same at a tax sale in the year 1872, or are successors in interest of such purchasers. The bill was referred to the Secretary of the Interior, who reported favorably thereon to the chairman of the Committee on the Public Lands of the House of Representatives. The report of the Secretary which sets out in full the reasons why the bill should be passed is printed herewith, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 11, 1921.

Hon. N. J. SINNOTT,
*Chairman Committee on the Public Lands,
House of Representatives.*

MY DEAR MR. SINNOTT: I have the honor to submit the following information relative to House bill No. 14851, entitled "A bill for the relief of occupants of lands included in the Bellevue grant, in St. Landry Parish, La.

The claim of the inhabitants of Bellevue is segregated on township plat approved April 22, 1852, as sec. 53, T. 7 S., R. 4 E., Louisiana meridian, Louisiana, containing 1,231.34 acres, and appears as No. 59, class B, in the report of the commissioners for the western district of Louisiana, dated April 6, 1815, authorized by section 8 of the act of March 3, 1807 (2 Stat., 440), American State Papers, Gales & Seaton edition, volume 3, pages 92, 107, and 108. By reference to the report of the commissioner dated October 16, 1812, State Papers (vol. 2, p. 745), it will be observed that the claims marked "B" are—

"Claims which though not embraced by the provisions of said acts ought nevertheless, in the opinion of the commissioners, to be confirmed in conformity with the laws, usages, and customs of the Spanish Government."

Under date of March 10, 1797, the inhabitants of Bellevue petitioned the Spanish Government as follows:

"* * * that they are so situated by the loss of their suit with Mr. Duplessis that they are likely to be under the necessity of abandoning their farms for want of cypress and other wood necessary for their culture; but as there is another swamp adjoining to that, which can not be of any detriment to others and belonging to His Majesty, of about 40 or 50 arpents, they humbly beg your lordship to order that the commandant, Mr. Duralde, should put them in possession of the same."

On March 13, 1797, the Spanish authorities issued the following order:

"The commandant or the deputy surveyor of the post of Opelousas shall lay out and mark the 40 or 50 arpents of swamp solicited for the use in common of all and every one of the inhabitants of the quarter of district of Bellevue, being ordered under the express conditions that said swamp shall never be granted to anyone to avoid the disputes and process that originated for the first 40 arpents which gave birth to the suit between Duplessis and those inhabitants; and the survey made shall be remitted to me, that I may give the title in form."

The commissioners of the United States in considering the above concession took the view that merely a permit or license to cut and use the timber on the land was intended; that the words "that the said swamp shall never be granted to anyone" showed an intention to reserve to the Crown of Spain the fee simple in the soil and recommended that the privilege be confirmed so far as it could be done without a relinquishment of the right to the soil. The recommendation for confirmation was further restricted to the timber growing on the land, "which may properly be designated as swamp."

The claim under discussion, together with the other claims marked "B" in said report, was confirmed by section 1 of the act of Congress approved April 29, 1816 (3 Stat., 328), in the following language:

"That claims marked 'B' and described in the several classes in the above-mentioned reports of the commissioners for the western district of the State of Louisiana, formerly Territory of Orleans, and recommended by them for confirmation, be, and the same are hereby, confirmed."

Section 3 of said act provides for the issuance of patents for the claims confirmed.

It appears from the bill that the tract has been subdivided into lots of 50 acres each, purported to have been sold for taxes due the State and parish of St. Landry in 1872, and that the titles of the parties now in possession of the various lots are based on such tax sales. The preamble to the bill sets forth that under the strict terms of the concession to the inhabitants of Bellevue their rights were confined to the use of the timber growing on the swamp land embraced within the section lines and that practically all the timber has been removed. The bill provides that the purchasers of the lots at the tax sale, or their successors in interest, be permitted to purchase their respective

holdings from the United States at \$1.25 per acre, subject to the rights of the inhabitants of Bellevue to remove and use any timber still standing within the limits of the grant.

The matter of the status of the lands embraced in this grant has recently been before the department, and in letter of the General Land Office, approved by the department, dated June 2, 1920, addressed to Hon. Ladislas Lazaro, House of Representatives, the following view was taken:

"From an examination of the petition of the inhabitants of Bellevue and the order of survey issued in favor of said inhabitants it is difficult for this office to indorse the conclusion reached by the commissioners. The inhabitants requested that they be placed in possession of a swamp and an order of survey was issued covering a swamp and not a permit to cut timber. An order of survey issued by the Spanish authorities conferred a right and has reference to land and as stated by the Supreme Court in the case of *Choteau's Heirs v. United States* (9 Peters 137) is—

"The foundation of title and is in the general understanding capable of being perfected into a complete title."

"The stipulation in the order of survey 'that said swamp shall never be granted to any one' was clearly inserted as a protection to the town, it having previously lost its wood lot through a suit with Mr. Duplessis. Considering the words 'and the survey made, it shall be remitted to me that I may give title in form' produces the impression that while the land should not be granted to any individual a grant to the inhabitants of the town collectively was intended. However, the commissioners state their opinion in no uncertain terms to the contrary and the intention of Congress in confirming the claim must control. The act of April 29, 1816, *supra*, confirms the claims marked 'B' in the report above referred to, recommended by the commissioners for confirmation. It is noted that the claims marked 'B' were not confirmed as recommended, but the claims marked 'B' recommended for confirmation by the commissioners, were confirmed. In this particular it is the opinion of this office that the words 'recommended for confirmation by the commissioners,' were words of description of the class in the report of the commissioners and not words of limitation of the estate confirmed. In other words, it is thought that the claims marked 'B,' which as explained by the commissioners in a former report, designated claims favorably reported, were confirmed without qualification."

While there is a difference of opinion as to whether the inhabitants of Bellevue had a fee simple grant to the land described, or simply the right to use in common the lands for the purpose of securing a wood and timber supply therefrom, it is my opinion that the cloud on the title should be cleared, and that H. R. 14851 will accomplish this desirable purpose. I therefore advise that this department has no objection to the enactment of the measure.

Cordially, yours,

JOHN BARTON PAYNE, *Secretary.*

The reasons for amendment No. 1, changing the wording of the first three lines of the preamble, are explained in the following letter from the Secretary of the Interior:

DEPARTMENT OF THE INTERIOR,
Washington, January 26, 1921.

Hon. N. J. SINNOTT,
*Chairman Committee on the Public Lands,
House of Representatives.*

MY DEAR MR. SINNOTT: I have the honor to acknowledge receipt of letter dated January 15, 1921, signed by Mr. Edward D. Baldwin, clerk, Committee on the Public Lands, House of Representatives, relative to the citation concerning the claim of the inhabitants of Bellevue appearing in H. R. 14851.

In response you are advised that record of this claim appears in the American State Papers relating to public lands, Gales & Seaton edition, volume 3, pages 92, 107, and 108, the claim being No. 59. It is noted that the preamble to the bill also refers to volume 18. This set of books is sometimes referred to as Class 8 of the American State Papers and doubtless that was the reference intended.

It is suggested that the first three lines of the preamble to the bill containing the citation referred to be changed to read as follows:

"Whereas, as appears from an extract from the American State Papers, class eight, relating to public lands, Gales & Seaton edition, volume 3, pages 92, 107, and 108, claim No. 59, and the report of the commissioners thereon,"

Cordially, yours,

JOHN BARTON PAYNE, *Secretary.*

